



An
Bord
Pleanála

Inspector's Report ABP-302228-18

Development

Change of window opening to door opening at side of house, change size of window opening at side of house and change size of two openings at the front.

Location

2 Saint Jude's Park., St. Patrick's Road, Limerick

Planning Authority

Limerick City and County Council

Planning Authority Reg. Ref.

18/309

Applicant(s)

Valerie Price.

Type of Application

Permission

Planning Authority Decision

Grant Permission.

Type of Appeal

Third Party

Appellant(s)

Thomas Burke

Observer(s)

None

Date of Site Inspection

22nd November 2018

Inspector

Fiona Fair.

1.0 Site Location and Description

- 1.1. The appeal site No. 2 St. Jude's park (of stated 504 sq. m) is located to the east side of St. Patricks Road to the south east of Limerick City Centre. There is an existing detached single storey habitable dwelling on the site.
- 1.2. The dwelling is set back in line with a row of 6 similar dwellings. The appellants dwelling No. 3 St. Jude's Park is located directly to the south, there is no party boundary between the gable wall of No. 2 (host dwelling) and the drive way of No. 3 (the appellants dwelling). The gable wall of the appellants dwelling is constructed right up to the party boundary.
- 1.3. The southern gable wall of the appeal dwelling has three windows facing one window on the northern side gable of No. 3 the appellants dwelling. On the day of inspection, the blinds were drawn on the appellants window, which it is submitted in documentation on file to be a bedroom window. The side / gable windows on the applicants dwelling serve a bedroom, utility and kitchen/dining/living area.
- 1.4. The separation distance between the two dwellings ranges from 3.225 m – 4.1m

2.0 Proposed Development

- 2.1. The proposal comprises Permission for:
 - Change of window opening to door opening at side of house,
 - Change size of window opening at side of house and
 - Change size of two openings at the front.

3.0 Planning Authority Decision

3.1. Decision

Following a request for Further Information with respect to: 1. Clarification of exempted development. 2. Remove the side window enlargement and clarification of

finishes and 3. Address issues raised by the objector. Planning Permission was Granted subject to three conditions. Conditions of note:

C2. The window servicing bedroom number 2 as indicated on Drawing No. 18-36-1 shall not be enlarged. The side door proposed shall have obscure glass only on the top half and the bottom half shall be a solid material. White upvc is not permitted for the door or windows.

3.2. Planning Authority Reports

Planning Reports

The Planners Report recommends a grant of permission.

Other Technical Reports:

Enforcement Section: Report sets out that the enforcement officer is satisfied after an inspection of the site that the rear extension to the subject dwelling is an exempted development.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One objection was received by the planning authority. Issues raised are similar to the those raised in the third-party appeal summarised in detail below.

4.0 Planning History

None on the site itself

4.1. Adjoining History of Interest

Reg Ref. 99/432 Permission Granted for construction of a rear extension to dwelling house.

5.0 Policy Context

Development Plan

The site is located within the city boundary for Limerick, as determined by the Limerick City Development Plan 2010 – 2016.

The appeal site is located on lands zoned R1 for Residential Use.

5.1. Natural Heritage Designations

Special Area of Conservation: Lower River Shannon SAC is located approx. 1.2 Km to the north of the subject appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

The third-party appeal is summarised as follows:

Negative Impact Upon Amenity

- There is insufficient border distance between the two properties.
- The appellants daughter is suffering from friedreichs ataxia and needs full time care.
- The new doorway would have a negative impact upon the illness and care of the appellants daughter.
- She permanently lives in the bedroom / living room converted to the north side of the appellants house.
- Appeal Accompanied with:
 - Letter from Dr Tom O'Callaghan / Dr Sinead Ryan-O'Dea
 - States Sarah Burke 2 St. Judes Park has medical issues, is a frail lady with limited life span. She is bedroom confined most of the time and has two carers coming in to attend her four times a day.
 - She is totally dependent.

- Putting a door facing the bedroom window where Sarah lives most of the time is inappropriate.
- Negative impact upon the appellants daughter's privacy.
- Photographs

6.2. Planning Authority Response

None received.

6.3. First Party Response

- Wish to widen and drop the two front windows to allow more daylight into the rooms, as rooms are west facing and don't get a lot of day light.
- There is precedent for larger windows on adjoining dwellings.
- Have taken into consideration neighbours' concerns and have agreed to leave the window on the southern gable / side elevation at the original size.
- The separation between the dwellings ranges from 3.225m to 4.1m therefore it is submitted there is sufficient separation distance to incorporate a doorway as proposed.
- Agree to fit obscure glass to the door, to protect neighbours privacy.
- The door is needed to bring in shopping because of chronic medical issues of the applicant. Access directly to the utility is required.
- The applicant suffers from Osteoarthritis
- Under no circumstances would the privacy of the appellants daughter or her carers be impacted upon.
- Dispute the location of the appellants daughter's bedroom opposite the proposed door. Submit that it is the bedroom of the appellant.
- The applicants house renovations are required to make the house more comfortable before winter comes.

Response accompanied with:

- Photographs.
- Plan and Drawings
- Letters from medical practitioners of the applicant in support of her application.

7.0 **Assessment**

I consider the key issues in determining this appeal are as follows:

- **Principle of the Development on the Site**
- **Impact Upon Residential Amenity**
- **Environmental Impact Assessment**
- **Appropriate Assessment**

7.1. **Principle of the Development on the Site**

The appeal site is located within an established residential area, zoned for residential land use, as per the Limerick City Development Plan 2010 - 2016. The appeal dwelling is not a protected structure, the adjoining dwellings while of similar scale and size are not identical and the dwellings are modern and of no particular architectural merit. The proposed alterations to the existing dwelling are considered acceptable in principle within this zoning objective, subject to compliance with development management criteria set out in the Development Plan.

7.2. **Impact Upon Residential Amenity**

Regard is had to concerns raised by the third party, a neighbouring property adjoining to the south, with respect to loss of privacy and overlooking from the proposed change of side / gable window opening to doorway and side window enlargement. Cognisance is had to the stated medical needs of the appellants daughter, set out by the appellant and in the supporting medical documentation submitted.

I note that there is no objection to the proposal to widen and drop the two front windows to allow more daylight into the west facing rooms. I have no concerns or objection to the proposed façade alterations.

The first party argue that the side door is needed to bring in shopping directly to the utility and would benefit the applicant's health because of the chronic medical issues she suffers from. It is also argued that there is precedent for larger windows on adjoining dwellings. The first party has taken into consideration neighbours' concerns and have agreed to leave the window on the southern gable / side elevation at the original size. I note that this is also in line with condition 2 of the draft notification of decision to grant planning permission. The first party have also agreed to fit obscure glass to the door, to protect neighbours privacy.

The separation between the dwellings ranges from 3.225m to 4.1m therefore it is submitted there is sufficient separation distance to incorporate a doorway as proposed. Having regard to all of the information before me, and having conducted a visit of the site and its environs, I am of the opinion that the insertion of a side door to access this detached residential property from its in-situ side driveway is not unreasonable and would be acceptable in the context of existing permitted development.

This is an urban site and I am not convinced that the insertion of the door with obscure glass to the top panel would give rise to overlooking, loss of privacy or would materially alter or diminish the residential amenity of the appellants property so as to warrant a refusal of permission.

7.3. Environmental Impact Assessment (EIA)

Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.4. **Appropriate Assessment (AA)**

Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest Natura 2000 sites. No Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 **Recommendation**

I recommend that planning permission should be Granted subject to the following conditions.

9.0 **Reasons and Considerations**

Having regard to the land-use zoning of the site, the existing pattern of development on the site and in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not overlook or be injurious to residential amenity of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 20th June 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The window serving bedroom number 2 as indicated on Drawing No. 18-36-1 shall not be enlarged.

(b) The new side door shall be permanently fitted and maintained with obscure or stained glass, only, on the top half and the bottom half shall be a solid material.

(c) White upvc is not permitted for the door or windows.

Reason: In the interest of residential and visual amenity.

3. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interests of public safety and residential amenity

Fiona Fair
Planning Inspector
07/01/2019